

ROLLAND MARSHALL

IBLA 81-615

81-677

Decided July 20, 1981

Appeals from decisions of California State Office, Bureau of Land Management, declaring mining claims abandoned and void. CA MC 8538-8545, 32603, 38166.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment -- Mining Claims: Abandonment

The failure to file the instruments required by sec. 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 38331. and 3833.2 in the proper Bureau of Land Management office within the time periods prescribed therein conclusively constitutes abandonment of the mining claim by the owner.

2. Notice: Generally -- Regulations: Generally -- Statutes

All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations.

3. Mining Claims: Assessment Work

The filing of evidence of annual assessment work in the county recording office does not constitute compliance with the recordation requirements of 43 CFR 3833.2-1.

APPEARANCES: Rolland Marshall, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Rolland Marshall has appealed from decisions of the California State Office, Bureau of Land Management (BLM), dated April 27 and May 13, 1981, declaring the unpatented Star, Blue Sky, Vulcan, Vista, Monitor, Aspen, Sierra and Colt lode mining claims, CA MC 8538-8545, El Santos lode mining claim, CA MC 32603, and Aztec lode mining claim, CA MC 38166, abandoned and void for failure to file evidence of annual assessment work or notice of intent to hold on or before December 30, 1980, as required by section 314, Federal Land Policy and Management Act of 1976, (FLPMA), 43 U.S.C. § 1744 (1976), and its implementing regulations, 43 CFR 3833.2-1(c) and 3833.4.

The claims in these appeals were located from 1977 to 1979. Copies of the recorded location notices had been timely filed with BLM, together with proof of assessment work through 1979. No evidence of assessment work or notice of intent to hold the unpatented claims was filed with BLM in 1980.

The appellant states that he intends to hold the mining claims and had filed his proof of annual labor early. He suggests that the document of proof of annual labor had been lost by BLM. With his notice of appeal, he submitted a copy of the proof of annual labor recorded July 16, 1980, in the official records of San Bernardino County, California.

[1] Section 314(a), FLPMA, 43 U.S.C. § 1744(a) (1976), requires the owner of an unpatented mining claim to file evidence of assessment work for the claim or a notice of intent to hold the claim with BLM on or before December 30 of each calendar year after date of recordation of the claim with BLM. Failure to so file within the prescribed time limit is statutorily considered conclusively to constitute abandonment of the claim under sec. 314(c) of FLPMA, 43 U.S.C. § 1744(c) (1976), and 43 CFR 3833.4. See Lynn Keith, 53 IBLA 192, 88 I.D. 369 (1981). Filings with the State or county do not satisfy this requirement.

When appellant failed to file timely with BLM either an affidavit of assessment work or a notice of intent to hold the unpatented mining claims, BLM properly held the claims abandoned and void. Robert R. Eisenman, 50 IBLA 145 (1980).

[2] The fact that appellant may have been unaware of the recordation requirements of FLPMA, while unfortunate, does not excuse him from compliance. Those who deal with the Government are presumed to have knowledge of the law and regulations duly adopted pursuant thereto.

Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Donald H. Little, 37 IBLA 1 (1978). The responsibility for complying with the recordation requirements rested with appellant. This Board has no authority to excuse lack of compliance. Lynn Keith, *supra*; A. J. Grady, 48 IBLA 218 (1980); Glen J. McCrorey, 46 IBLA 355 (1980).

[3] Accomplishment of a proper recording in the appropriate county does not relieve claimant from recording with BLM under the filing requirements of FLPMA or the implementing regulations. While under 43 CFR 3833.4(b) a defective or untimely recording under State law does not, of itself, constitute a failure to file under FLPMA, neither does a valid or timely filing with a county constitute a FLPMA filing. There are two separate filing requirements and compliance with the one does not constitute compliance with the other.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decisions appealed from are affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

Anne Poindexter Lewis
Administrative Judge